

LABOUR RELATIONS BOARD

**UNFAIR LABOUR PRACTICE COMPLAINT AND APPLICATION FOR ENHANCED
MEDIATION**

Pursuant to Sections 12(2)(a) & (e) and 16(1) of the *Labour Relations Code*, RSA 2000 c. L-1 [the *Code*].

I. COMPLAINANT:

United Nurses of Alberta (the “Union” or “UNA”)

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II. NAME OF EMPLOYER AGAINST WHOM THE COMPLAINT IS BEING MADE (RESPONDENT):

Alberta Health Services (“AHS” or the “Employer”)

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III. SECTION AND SUB-SECTION WHICH ARE ALLEGED TO HAVE BEEN VIOLATED:

The Union alleges that the Employer has violated sections 60(3) and 148(1)(a)(ii) of the *Code*.

Background

1. The Union is the certified bargaining agent for all direct nursing employees of the Employer, as well as Covenant Health, Lamont Health Care Centre, and the Bethany Group (Camrose).

Relevant Provisions of the Collective Bargaining Agreements

2. Dating back to at least 1996, the Collective Bargaining Agreement (“CBA”) between UNA and AHS (and/or its predecessor organizations) have had a Letter of Understanding #4 RE: Transfer of Programs (See LOU 4 from CBA 2020-2024 attached as **TAB 1**, LOU 4 from CBA 2017-2020 attached as **TAB 2**, LOU 4 from CBA 2013-2017 attached as **TAB 3**, LOU 4 from CBA 2010-2013 attached as **TAB 4**, LOU 4 from CBA 2007-2010 attached as **TAB 5**, LOU 4 from CBA 2003-2006/2007 attached as **TAB 6**, LOU 4 from CBA 2001-2003 attached as **TAB 7**, LOU 4 from CBA 1999-2001 attached as **TAB 8**, LOU 4 from CBA 1996-1999 attached as **TAB 9**).
3. LOU 4 has been used several times when services “are moved between different bargaining units which are both represented” by UNA, gives directly affected employees transfer and displacement rights under LOU 4 and Article 15 Layoff and Recall, and gives indirectly affected employees additional rights as well.
4. In 2005, one of AHS’s predecessors, David Thompson Regional Health Authority, violated the LOU RE: Transfer of Programs when, as a result of a Ministerial Order, there was a boundary adjustment between health authorities and some UNA members were immediately transferred between health authorities though the Employer had not met with the affected union locals and had not offered employees all rights specified in the CBA, including layoff and recall rights. (See arbitration award at **TAB 10**).

Recent Bargaining Background

5. The Union served notice to bargain to the Employer and announced its bargaining team on December 18, 2023, and AHS acknowledged the notice and announced its bargaining team on January 4, 2024.
6. The parties commenced bargaining on February 6, 2024 and exchanged ingoing proposals. They have had bargaining scheduled for the following dates, and bargaining occurred on the following dates except where noted:
 - February 6 & 7, 2024

- February 14 & 15, 2024
 - March 5, 6, and 7, 2024 – the Employer cancelled due to unforeseen circumstances, and UNA agreed and accepted the cancellation.
 - March 19, 20, & 21, 2024
 - April 2 & 3, 2024
 - On April 4, 2024, the parties were scheduled to bargain but AHS did not attend at UNA’s offices as planned and communicated by email instead.
7. During bargaining and prior to April 2, 2024, AHS did not provide any additional information to UNA regarding the reorganization of services provided by AHS and other healthcare organizations.
8. The Employer has not sought any change in the current round of bargaining concerning LOU 4 or the article concerning layoff and recall rights or process.

Announcements of Health Care System Reorganization

9. On December 1, 2023 and in advance of the commencement of bargaining, Alberta Health Services wrote to UNA stating that there would be an initiative from the Government of Alberta to “shift” functions from AHS into different, new organizations that focus on one of Primary Care, Continuing Care, and Mental Health and Addictions. AHS stated that the majority of unionized employees worked in what AHS expected would be considered Acute Care which would likely remain an AHS function, but AHS expected “some reductions in positions within UNA’s AHS bargaining unit,” that AHS would update UNA, meet and discuss impacts to bargaining unit positions with UNA throughout the process, and “work with UNA in accordance with any obligations under the collective agreement and the Labour Relations Code.” (See attached letter, **TAB 11**).
10. On April 2, 2024, the Premier Danielle Smith, and Mental Health and Addictions Minister Dan Williams, the current Chief Program Officer for Mental Health and Addiction and Correctional Health Services and future CEO for Recovery Alberta Kerry Bales, and others made public announcements regarding Recovery Alberta’s formation. They stated, among other things, that the process to reorganize mental health and addictions care delivery started in August, and has

continued through the fall of 2023 and early 2024 in collaboration with AHS and frontline workers. They also stated that the workers providing mental health and addictions treatment services would be moving seamlessly to the new organization. (See recording of April 2, 2024 press conference here: <https://www.youtube.com/watch?v=gPUoREHGWgw>).

11. On April 2, 2024, AHS called a meeting with all AHS health care unions, and provided UNA with a letter stating that a new organization called “Recovery Alberta: Mental Health and Addiction Services” would be formed in the next few months, affecting staff in multiple settings (See attached Disclosure Letter, **TAB 12**). No legislation or other constituting documents have been provided that establishes Recovery Alberta.
12. Included with the April 2, 2024 letter was a “FREQUENTLY ASKED QUESTIONS” document, which states, among other things, that “Staff won’t likely notice any significant change and day-to-day work will be the same,” and this “transfer from AHS to Recovery Alberta will not result in changes to any Terms and Conditions of Employment including pay, benefits, pension, and union affiliation” (See attached FAQ, **TAB 13**).
13. The announcement of Recovery Alberta was emailed on April 2, 2024 to each AHS employee by AHS’s Chief Executive Officer, Athana Mentzelopoulos, stating “It is anticipated that all AHS AMH and CHS staff will transition to Recovery Alberta.” (See email, **TAB 14**).
14. On April 2, 2024, AHS emailed UNA a list of the current numbers by site that were anticipated to be directly affected UNA employees by the establishment of Recovery Alberta (See attached email, **TAB 15**). The list comprises 2654 full-time equivalents or approximately 3200 individuals across 132 sites.
15. UNA immediately informed AHS at the bargaining table that, in UNA’s view, the CBA’s provisions concerning layoff, recall, and minimum hours would apply in these circumstances. AHS noted UNA’s position.
16. On April 3, 2024, the parties met again. UNA reiterated its position that the CBA’s provisions regarding bumping and recall, and LOU 4 applied in these circumstances, and requested that AHS confirm that is the case. The parties also reviewed a previous Alberta Labour Relations

decision concerning successorship. AHS said they would consider UNA's request and provide an answer.

17. On April 4, 2024, AHS emailed UNA to state it was undertaking a comprehensive review of UNA's question about the applicability of LOU 4 (which includes the reference to Layoff and Recall Article 15 of the CBA), and aimed to have an answer to UNA the following week. UNA replied requesting that AHS inform UNA employees that they may not be obligated to transfer and that AHS was taking a comprehensive review. Later that day, AHS stated that though they were willing to meet to discuss Recovery Alberta with UNA, it would be "premature to attempt to answer your specific questions at this time until further details are known" (See email exchange attached as **TAB 16**).
18. On April 5, 2024, UNA wrote letters to Premier Danielle Smith and Minister Dan Williams, urging them not to use legislation to interfere with negotiated rights of UNA members (See letter attached as **TAB 17**).
19. On April 5, 2024, AHS emailed all Employees with a link to the announcement of Recovery Alberta (<https://www.recoveryalberta.ca/>), with the information that "staff will transition to the new mental health and addiction organization this summer, pending approval of the new Act by the Alberta Legislature." No "Act" has been disclosed to UNA, and in bargaining on April 3, 2024, the AHS bargaining team indicated they had not yet seen the legislation either.
20. On April 5, 2024, AHS emailed each of UNA's members advising them that it is anticipated that employees who hold positions that are directly affected by the establishment of Recovery Alberta will transfer directly to Recovery Alberta, and implying that they would not be able to exercise their rights under LOU 4 and associated articles (See attached email at **TAB 18** showing the email forwarded to UNA).
21. Minister Dan Williams and AHS Addiction and Mental Health managers are hosting four town halls with staff affected by the transition to Recovery Alberta, scheduled for April 11, 15, 17, and 22, 2024 (See attached registration information attached as **TAB 19**).

IV. SUMMARY AND BASIS OF THE APPLICATION

Bad Faith Bargaining

22. The Employer has failed to negotiate in good faith, contrary to s. 60(3) of the *Code*, by planning the transition of approximately 10% of its members to a new employer without regard to their existing CBA rights. The provincial government has stated that the plan for Recovery Alberta has been done in collaboration with AHS and front-line workers, yet no consultation or information was shared with UNA and no bargaining occurred with UNA regarding the transition. The ‘transfer’ was announced publicly on April 2, 2024, concurrently with when it was announced to UNA.

23. The Employer has announced that approximately 3200 of UNA’s members will transfer over, without respect for their ability to exercise rights under their existing CBA, including being able to elect whether or not to transfer.

Prohibited Practice

24. In addition to the Employer’s failure to bargain in good faith, the Employer has interfered with the Union’s representation of its members by notifying AHS employees of the transfer to Recovery Alberta prior to negotiating the operation of a transfer with the UNA. This undermines the role of the Union as exclusive bargaining agent with respect to its members, and interferes with the Union’s ability to effectively represent their members.

V. REMEDIES REQUESTED

25. On the basis of the above, the Union seeks the following remedies on an interim basis:

- a) An order directing the Employer to cease engaging in direct communication with employees regarding transfer to Recovery Alberta;
- b) An order directing the Employer to bargaining in good faith with respect to the terms and conditions of the CBA and any transfer to Recovery Alberta

26. On the basis of the above, the Union seeks the following remedies:

- a) A declaration that the Employer has violated the *Code*;

- b) An order that the Employer cease and desist in violating the *Code*;
- c) An order directing the Employer to bargain in good faith;
- d) An order directing the Employer to cease engaging in direct communication with employees regarding any transfer to Recovery Alberta;
- e) An order providing the Union and its individual members general damages resulting from the Employer's conduct and interference with the Union's representational rights and the members' rights to representation.
- f) An order that the Employer post notices for employees setting out the Board's orders in this matter;
- g) Any of the above remedies on an interim basis; and
- h) Any other order or direction that is appropriate in the circumstances.

DATED at the City of Edmonton, in the Province of Alberta, this 8th day of April, 2024.



David Harrigan, Director of Labour Relations, UNA

& Blair Bukmeier, Labour Relations Officer, UNA